

Chairman Vap called the regularly scheduled meeting to order at 10:06 a.m. with Commissioners Boyle, Lowell Johnson, Rod Johnson, Landis and Vap present.

#### GENERAL ADMINISTRATION

Notice was duly published March 1, 2005 on Page 8 of The Daily Record that the regular public meeting of the Commissioners of the Nebraska Public Service Commission would be held March 8, 2005 at 10:00 a.m. in the Commission Hearing Room, 300 The Atrium, 1200 N Street, Lincoln.

Attention was called to the following proceedings:

#### Tuesday, March 8, 2005:

1:00 Commission Hearing Room, Lincoln. Commissioner Vap presiding as Hearing Officer. In the Matter of Jeffrey L. Pursley, Director, Nebraska Universal Service Fund Department, Complainant, vs.

NUSF-37.14 Trans-Communications, Inc.

NUSF-37.20 WebLink Wireless, LP

NUSF-37.38 NUI Telecom, Inc.

NUSF-37.39 WorldxChange Corporation dba Acceris Communications

MCC-3154/ Commission Hearing Room, Lincoln.

M-14110 In the Matter of Mark Breiner, Director, Motor

1:30 Transportation Department, vs. Mike's Moving, Omaha.  
Commissioner Landis presiding as Hearing Officer.

#### Wednesday, March 9, 2005:

C-3337 Video Hearing. Commission Library, Lincoln; Hastings  
10:00 Library, 2<sup>nd</sup> Floor, 517 West 4th Street, Hastings; and  
Nebraska State Office Building, Room 207, 1313 Farnam  
Street, Omaha. In the Matter of the Commission, on  
its own motion, seeking to determine the surcharge for  
the statewide telecommunications relay system to be  
effective July 1, 2005. Commissioner Jerry Vap pre-  
siding as Hearing Officer.

C-3327/ Hastings Library, 2<sup>nd</sup> Floor, 517 West 4th Street,  
PI-90 Hastings. In the Matter of the Commission, on its own  
10:30 motion, seeking comment on the request by United Way  
of the Midlands to be assigned the use of "211" for  
Adams, Clay, Nuckolls and Webster Counties to gain  
access to First Call for Help (FCFH), a comprehensive  
information and referral service. Commissioner Rod  
Johnson presiding as Hearing Officer.

GENERAL ADMINISTRATION (Cont.)

Wednesday, March 16, 2005:

Rule and Commission Hearing Room, Lincoln.  
Regulation In the Matter of the Commission, on its own motion, seek-  
#158 ing to amend Title 291, Chapter 8, Grain Warehouse and  
10:00 Grain Dealer Rules and Regulations, to adopt rules in  
accordance with Nebraska Legislative Bill 735 [2003].  
Commissioner Vap presiding as Hearing Officer.

COMMUNICATIONS DEPARTMENT

C-3316 In the Matter of Dark Fiber Solutions, LLC, Plainfield, New  
Jersey, seeking a Certificate of Convenience and Necessity  
to provide local exchange telecommunications services in the State of  
Nebraska: Motion made by Commissioner Lowell Johnson, seconded by  
Commissioner Anne Boyle, to enter an order granting the application.  
Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod  
Johnson, Frank Landis, and Jerry Vap voting AYE.

C-3381 In the Matter of the Commission, on its own motion, regard-  
ing the 2004 Annual Report Filings: Motion made by Commis-  
sioner Lowell Johnson, seconded by Commissioner Rod Johnson, to enter  
an order to open the docket. Motion passed with Commissioners Anne  
Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting  
AYE.

Engineering

E-2062 In the Matter of Nebraska Public Power District, Columbus,  
seeking authority to construct, operate and maintain an  
electric transmission line in Cedar County: Motion made by Commis-  
sioner Lowell Johnson, seconded by Commissioner Anne Boyle, to enter  
an order granting the application. Motion passed with Commissioners  
Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap  
voting AYE.

E-2063 In the Matter of Nebraska Public Power District, Columbus,  
seeking authority to construct, operate and maintain elec-  
tric transmission lines in Platte and Boone counties: Motion made by  
Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle, to  
enter an order granting the application. Motion passed with Commis-  
sioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and  
Jerry Vap voting AYE.

COMMUNICATIONS DEPARTMENT Cont.)

C-3324 In the Matter of N.E. Colorado Cellular, Inc., d/b/a Viaero Wireless, Fort Morgan, Colorado, seeking a designation as an eligible telecommunications carrier under 47 U.S.C. Section 214(e)(2): A hearing was scheduled for May 24, 2005, at 1:00 p.m.; May 25, 2005, at 9:00 a.m. in the Commission Hearing Room, Lincoln; and on May 26, 2005, at 9:00 a.m. in the City Council Chambers, City Hall, 302 West 5<sup>th</sup>, McCook.

C-3335 In the Matter of Qwest Communications Corporation (QCC), Denver, Colorado, seeking to Remove Restrictions of the Commission Order in Docket C-1839/PI-22: A planning conference was scheduled for March 10, 2005, at 9:30 a.m. in the Commission Library.

Gene Hand reported on the Notification of SBC Communications Inc.'s Acquisition of AT&T Corporation. In addition, Gene Hand discussed the Qwest deregulation bills in Iowa and Idaho.

Gene Hand updated the Commission on numbering issues and noted that VoIP providers are asking the Federal Communications Commission (FCC) directly for additional numbers.

UNIVERSAL SERVICE FUND

NUSF-37.23 In the Matter of Jeffrey L. Pursley, Director, Nebraska Universal Service Fund, Complainant, vs. Inter-Tel Net Solutions, Inc., Respondent. Commissioner Vap presiding as Hearing Officer: Motion made by Commissioner Rod Johnson, seconded by Commissioner Frank Landis, to grant an order to dismiss the complaint and cancel the hearing scheduled for March 8, 2005. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

NUSF-37.50 In the Matter of Jeffrey L. Pursley, Director, Nebraska Universal Service Fund, Complainant, vs. Teledias Communications, Inc., Respondent. Commissioner Vap presiding as Hearing Officer: Motion made by Commissioner Rod Johnson, seconded by Commissioner Frank Landis, to grant an order to dismiss the complaint and cancel the hearing scheduled for March 8, 2005. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

NUSF-1 In the Matter of the Commission, on its own motion, seeking P.O. 7 to establish guidelines for the administration of the Nebraska Universal Service Fund: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Rod Johnson, to grant Citizens Telecommunications Company a request for extension of two months or to May 2, 2005, to complete their NUSF-EARN audit. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

UNIVERSAL SERVICE FUND (Cont.)

Jeff Pursley discussed changes to the NUSF Remittance Late-Fee/Administrative Fine Procedure. Motion made by Commissioner Lowell Johnson, seconded by Commissioner Frank Landis, to approve changing the minimum Administrative Fine to \$50.00 per occurrence for formal complaints. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

NATURAL GAS DEPARTMENT

NG-0026 In the Matter of American Gas Supply, Ltd. (Heartland), Houston, Texas, seeking authority, and to include Temporary Authority, for a Competitive Natural Gas Provider Certificate in the state of Nebraska: Motion made by Commissioner Frank Landis, seconded by Commissioner Lowell Johnson, to enter an order granting the authority. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

NG-0027 In the Matter of Kinder Morgan Retail Energy Services Company, Lakewood, Colorado, seeking authority, and to include Temporary Authority, as a competitive natural gas provider in the state of Nebraska: Laura Demman informed the Commission that Cornerstone Energy filed an informal intervention on March 4, 2005.

LEGISLATIVE REPORT

Motion made by Commissioner Rod Johnson, seconded by Commissioner Lowell Johnson, to approve the fiscal note on LB 751. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

Motion made by Commissioner Rod Johnson, seconded by Commissioner Lowell Johnson, to approve the fiscal note on LB 743. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

Motion made by Commissioner Rod Johnson, seconded by Commissioner Lowell Johnson, to approve the fiscal note on LB 316. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

Motion made by Commissioner Rod Johnson, seconded by Commissioner Lowell Johnson, to approve the fiscal note on LB 585. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

Motion made by Commissioner Lowell Johnson, seconded by Commissioner Frank Landis, to approve a letter to the Natural Resources Committee opposing the funding source in the Amendment to LB 722. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

LEGISLATIVE REPORT (Cont.)

Angela Melton reported on, and the Commission discussed, general legislation updates and hearings.

GRAIN WAREHOUSE DEPARTMENT

GW-1154      In the Matter of Heartland Coop, Hastings: John Fecht discussed the shortage of white corn.

Grain Dealer Division

GD-2738/      In the Matter of John A. Fecht, Director, Warehouse  
GDC-399      Department, Complainant, v. Helena Chemical Company,  
                 Petersburg, Defendant: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle, to enter an Order to Show Cause and schedule a hearing for April 19, 2005 at 1:30 p.m. in the Commission Hearing Room, Lincoln. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

GD-2826/      In the Matter of John A. Fecht, Director, Warehouse  
GDC-402      Department, Complainant, v. Cooperative Marketing Alliance,  
                 Inc. dba CoMark, Memphis, Tennessee: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle, to enter an Order to Show Cause and schedule a hearing for April 19, 2005, at 1:30 p.m. in the Commission Hearing Room, Lincoln. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

GD-2834/      In the Matter of John A. Fecht, Director, Warehouse  
GDC-400      Department, Complainant, v. FGDI Grain, L.L.C., Des Moines,  
                 Iowa: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle, to enter an Order to Show Cause and schedule a hearing for April 19, 2005, at 1:30 p.m. in the Commission Hearing Room, Lincoln. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

GD-2860/      In the Matter of John A. Fecht, Director, Warehouse  
GDC-401      Department, Complainant, v. Huron Commodities, Inc.,  
                 Clinton, Ontario, Canada: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle, to enter an Order to Show Cause and schedule a hearing for April 19, 2005, at 1:30 p.m. in the Commission Hearing Room, Lincoln. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

GD-2871/      In the Matter of John A. Fecht, Director, Grain Warehouse  
GDC-398      Department, Complainant, v. North Side Grain Co., Laurel,  
                 Defendant: Commissioner Rod Johnson was appointed Hearing Officer for the hearing scheduled for April 12, 2005.

TRANSPORTATION DEPARTMENT

B-1395 In the Matter of Karibu Enterprises, Inc., dba RT Round Trip Transport, Omaha. Commissioner Boyle presiding as Hearing Officer: Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle, to schedule a Show Cause hearing on March 22, 2005 at 2:00 p.m. in the Commission Hearing Room, Lincoln, to determine whether to grant or deny the suspension request. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

M-14187 In the Matter of Miracle Movers, Inc., Lincoln, seeking to acquire, through transfer, the authority granted to Nebraska Bulk Transports, Inc. in Certificate M-11876: Motion made by Commissioner Frank Landis, seconded by Commissioner Rod Johnson, to enter an order to grant temporary authority to the applicant. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

Rate Division

LR-253 In the Matter of Extreme Limousine, Inc., dba A Limousine Service, Omaha, seeking to adjust its rates and charges: Motion made by Commissioner Rod Johnson, seconded by Commissioner Lowell Johnson, to enter an order to grant the application. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

MR-1009 In the Matter of the Commission, on its own motion, initiating an investigation on range uniformity in the Official Intracity Household Goods Tariff 22. Commissioner Rod Johnson presiding as Hearing Officer: The hearing previously scheduled for a date later to be determined was rescheduled for April 5, 2005, at 2:00 p.m. in the Commission Hearing Room, Lincoln.

MR-930 In the Matter of Movers and Warehouse Division, Nebraska Motor Carriers Association, Lincoln, seeking authority to establish a fuel surcharge in Nebraska Official Household Goods Tariff 7-F: The fuel surcharge was retained at 40 cents per mile.

GENERAL ADMINISTRATION

Motion made by Commissioner Lowell Johnson, seconded by Commissioner Anne Boyle, to approve the following Commission invoices. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE.

Kelly Services	\$	511.88
Ted Burkey		1,765.00
Robert Bowman		945.02
Kent Pribyl		781.56

GENERAL ADMINISTRATION (Cont.)

NEBRASKA EQUIPMENT DISTRIBUTION PROGRAM

Aksarben TDD Service	\$ 2,905.35
Alternative Hearing	1,491.73
Associated Hearing Health	434.65
Audiology Services and HAC	169.95
Grand Island Hearing Aid	542.45
Hamilton Telecommunications	284.90
Hearing Aid Specialists	1,000.00
Carl A. Johnson	734.60
Carl A. Johnson	956.05
K-D Communications	5,891.10
McCook Pharmacy	261.89
Professional Hearing Aid Services	389.90
R and J Enterprises	1,278.55
Sherard Hearing Aid Center	816.00
Sound Clarity, Inc.	159.45
Teltex	498.90
Weitbrecht Communications	7,201.50
Western ENT Associates	254.90

Commissioner Frank Landis exited the Commission Hearing Room.

Upon agreement of all Commissioners present, the following Commission meeting dates were scheduled for the 2nd quarter:

April 5, 12, 19 and 26, 2005  
May 4 and 11 (Wednesdays), 17 and 24, 2005  
June 1 (Wednesday), 7, 14 and 28, 2005  
No meeting the week of June 20, 2005

Upon agreement of all Commissioners present, authorization was granted for Commissioner Lowell Johnson to attend the Telecommunications Relay Service (TRS) Council Meeting to be held in Washington, DC from April 18-20, 2005, with all expenses to be paid by the National Exchange Carrier Association (NECA).

Motion made by Commissioner Lowell Johnson, seconded by Commissioner Rod Johnson, to go into closed session to discuss personnel and investigatory matters. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, and Jerry Vap voting AYE, Commissioner Frank Landis Excused Not Voting. The Commission went into closed session at 11:12 a.m.

Commissioner Frank Landis returned to the Commission Hearing Room.

GENERAL ADMINISTRATION (Cont.)

Motion made by Commissioner Lowell Johnson, seconded by Commissioner Rod Johnson, to return to open session. Motion passed with Commissioners Anne Boyle, Lowell Johnson, Rod Johnson, Frank Landis, and Jerry Vap voting AYE. The Commission returned to open session at 11:21 a.m.

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The meeting adjourned at 11:22 a.m. with Commissioners Boyle, Lowell Johnson, Rod Johnson, Landis and Vap present. The next regularly scheduled meeting will be held on March 22, 2005, at 10:00 a.m. with an agenda to be available in the office of the Executive Director at 10:00 a.m. on March 21, 2005.

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Chairman

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Executive Director